

RECEIVED
CENTRAL FAX CENTERApplication Serial No. 10/799,397
Reply to Office Action dated May 16, 2008

AUG 04 2008

REMARKS/ARGUMENTS

Presently, claims 1 and 6-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,165,524 to Narayanaswamy et al. in view of U.S. Patent No. 6,312,741 to Navarro; claims 19 and 23-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Narayanaswamy et al. in view of Navarro; and claims 35-45 and 57-62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Narayanaswamy et al. in view of Navarro and U.S. Patent No. 4,929,464 to Willyard et al. By this amendment/response, claim 19 has been amended.

Initially, it should be noted that claims 1, 19, 37 and 58 of the present application require an encapsulated acid having a mean particle size of about 150-840 microns. The Examiner admits that Narayanaswamy et al. does not teach a mean particle size of about 150-840 microns as claimed. The Examiner then turns to Navarro which teaches coated fumaric acid having a particle size from about 70 to 140 microns. This particle size is outside of the claimed range. Additionally, the coated fumaric acid particles of Navarro preferably have a coating melting point of above 125°F. In contrast, the present invention requires a **minimum** melting point of 150°F as set forth in claims 18, 24, 57 and 62. As none of the prior art teaches the minimum melting point as claimed or the particle size as claimed, no prima facie case of obviousness has been established for claims 1, 6-18, 19, 23-34, 37, 57, 58 and 59-62.

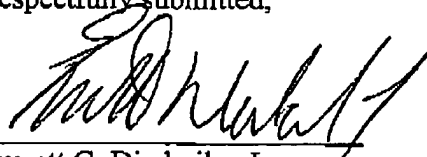
Claim 35 is directed to a method of preparing a fried bakery product using a dried mix which is formed into a batter and deep fried to an internal cooked temperature of about 170-230° F. Neither Narayanaswamy et al. nor Navarro teach the step of deep-frying batter in oil to produce a fried bakery product having an internal cooked temperature of about 170°F as required by claim 35. However, the Examiner points to a teaching for an internal donut temperature in Willyard et al. of 150°F **upon reheating a fried donut in a microwave**. This is not equivalent to the step of deep-frying batter in oil to produce a fried bakery product having an internal cooked temperature of about

Application Serial No. 10/799,397
Reply to Office Action dated May 16, 2008

170°F as required by claim 35. Therefore, it is respectfully submitted that no prima facie case of obviousness has been established for claims 35-45 and 57.

Based on the above, it is requested that the prior art rejections be withdrawn and the claims allowed. If the Examiner should have any additional concerns regarding the allowance of the application that can be readily addressed, she is cordially invited to contact the undersigned at the number provided below in order to further expedite prosecution.

Respectfully submitted,



Everett G. Diederiks, Jr.
Attorney for Applicant
Reg. No. 33,323

Date: August 4, 2008
DIEDERIKS & WHITELAW, PLC
12471 Dillingham Square, #301
Woodbridge, VA 22192
Tel: (703) 583-8300
Fax: (703) 583-8301